

CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1426

Citations Affected: IC 5-28-28; IC 6-3.1-13-23; IC 6-3.1-26-24.

Synopsis: Economic incentives accountability. Requires the Indiana economic development corporation (corporation) to report semiannually on certain tax credits, loans, and grants approved or awarded by the corporation, and on the level of compliance by recipients with representations made to obtain the benefits. Provides that the corporation shall seek to reclaim certain loans and grants if the entity to which the loan or grant is awarded has not, in the absence of good cause, complied with the representations made by the entity in obtaining the loan or grant. Repeals separate requirements that the corporation make annual reports concerning: (1) the economic development for a growing economy (EDGE) tax credit program; and (2) the Hoosier business investment tax credit program. **(This conference committee report differs from the Senate-passed version of EHB 1426: (1) by restricting the tax credits, grants, and loans on which the corporation must report; (2) by eliminating the duty of the corporation to reclaim a tax credit if the entity to which the corporation awarded the tax credit does not comply with the representations made by the entity in the course of obtaining the tax credit award; and (3) by restricting the corporation's duty to seek a refund from a grant or loan recipient if the grant or loan recipient has not complied with the representations the recipient made in obtaining the grant or loan.)**

Effective: Upon passage.

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill No. 1426 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 5-28-28 IS ADDED TO THE INDIANA CODE AS
- 3 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
- 4 PASSAGE]:
- 5 **Chapter 28. State Economic Incentives and Compliance Report**
- 6 **Sec. 1. This chapter applies to grants, loans, and tax credits:**
- 7 (1) applied for; and
- 8 (2) awarded;
- 9 after June 30, 2007.
- 10 **Sec. 2. As used in this chapter, "grant" refers to a grant given**
- 11 **by the corporation.**
- 12 **Sec. 3. As used in this chapter, "loan":**
- 13 (1) refers to a loan made by the corporation, regardless of
- 14 whether the loan is forgivable; and
- 15 (2) includes a loan guarantee made by the corporation.
- 16 **Sec. 4. As used in this chapter, "tax credit" means a state tax**
- 17 **liability credit under any of the following:**
- 18 (1) IC 6-3.1-7.
- 19 (2) IC 6-3.1-13.
- 20 (3) IC 6-3.1-13.5.
- 21 (4) IC 6-3.1-26.
- 22 (5) IC 6-3.1-27.

(6) IC 6-3.1-28.

(7) IC 6-3.1-30.

Sec. 5. (a) Beginning February 1, 2008, the corporation shall:

(1) submit an economic incentives and compliance report to:

(A) the governor; and

(B) the legislative council in an electronic format under IC 5-14-6; and

(2) publish the report on the corporation's Internet web site; on the schedule specified in subsection (b).

(b) Before August 2, 2009, the corporation shall submit and publish before February 1 and August 1 of each year an incentives and compliance report that covers the six (6) month period that ends one (1) month before the report is due. After August 1, 2009, the corporation shall submit and publish before August 1 of each year an incentives and compliance report that covers the twelve (12) month period that ends one (1) month before the report is due.

Sec. 6. The economic incentives and compliance report required under section 5 of this chapter must include at least the following:

(1) The total amount of each of the following:

(A) Tax credits approved or awarded by the corporation.

(B) Loans made by the corporation.

(C) Grants made by the corporation.

(2) With respect to each recipient of a tax credit, loan, or grant referred to in subdivision (1):

(A) The name and address of the recipient.

(B) The amount of the tax credit, loan, or grant.

(C) The purpose of the tax credit, loan, or grant.

(D) Representations of the following made by the recipient at the time of application for the tax credit, loan, or grant:

(i) Numbers of employees to be hired, retained, or trained.

(ii) Certification by the corporation that each recipient is meeting the program requirements and representations made in the recipient's application concerning the wages and compensation provided to employees who have been or are to be hired, trained, or retrained.

(iii) Other benefits to be provided to employees to be hired, retained, or trained.

(E) The extent to which the recipient has complied with the representations referred to in clause (D).

Sec. 7. (a) If in the course of compiling information to complete a report required by section 5 of this chapter the corporation determines that a recipient of a grant or loan has not complied with the representations that the recipient made in obtaining the grant or loan, the corporation shall determine:

(1) whether there was good cause for the noncompliance; and

(2) whether the recipient is in default.

(b) If in the judgment of the corporation there is not good cause for any noncompliance discovered under subsection (a), the corporation may seek a refund or arrange other methods of

1 reclaiming the grant or loan from the recipient. If the corporation
2 does seek a refund or otherwise reclaims a grant or loan from the
3 recipient under this section, the amount of the refund or reclaimed
4 part must be in proportion to the degree of default by the recipient
5 as determined by the corporation.

6 (c) Subsection (b) does not apply to a recipient of a grant or loan
7 if:

8 (1) the grant or loan has been disbursed on a pro rata basis;
9 and

10 (2) in the judgment of the corporation, the recipient's
11 performance in relation to the recipient's performance goals
12 equals or exceeds the ratio of the amount of the recipient's
13 actual benefit from the grant or loan to the total amount of
14 the grant or loan originally contemplated in the grant or loan
15 award.

16 SECTION 2. THE FOLLOWING ARE REPEALED [EFFECTIVE
17 UPON PASSAGE]: IC 6-3.1-13-23; IC 6-3.1-26-24.

18 SECTION 3. **An emergency is declared for this act.**

(Reference is to EHB 1426 as reprinted March 20, 2007.)

Conference Committee Report
on
Engrossed House Bill 1426

Signed by:

Representative Austin
Chairperson

Senator Ford

Representative Neese

Senator Lanane

House Conferees

Senate Conferees